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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SANJAY S. GADKARI

Appeal 2009-000324
Application 09/715,752
Technology Center 2400

Decided: March 15, 2010

Before JOSEPH L. DIXON, JAY P. LUCAS, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

A Patent Examiner rejected claims 1-3, 6-13, 16-21 and 23-28. The Appellant appeals therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

A. INVENTION

The invention at issue on appeal relates to a managed system of consumer-use processor-based devices may be utilized to reliably complete distributed computing jobs with predictable latency and throughput and determining, at the server, whether the task is completed after said time; and if not, determining, at the server, why the task was not completed.

In the words of Appellant:

> Distributed computing jobs may be divided into tasks and distributed to a managed network of consumer-use processor-based devices. In some cases, the nature and characteristics of each of those devices as well as their available resources may be well known to a system service provider or server. Thus, the capability of the network of processor-based devices may be reliably predicted. Particularly where all the devices are maintained remotely from a server, the managed network of processor-based devices may be depended upon to more reliably execute distributed processing tasks assigned by the server.

(Abstract.)

> When a status response is received, as determined in diamond 40, the server 12 may attempt to resolve any log jams as indicated in block 42. For example if a software or hardware crash has occurred, the server 12 may attempt to remotely diagnose and resolve the problem. The server 12 may determine that a software upgrade may be needed to complete the task as another example. The server 12 may also send a message to the owner or user of the client 16 requesting completion of certain operations to determine why the client 16 is not operating as expected.

(Spec. 8.)

B. Illustrative Claim

Claim 1, which further illustrates the invention, follows.

1. A method comprising:

assigning, from a server, distributed computing tasks to a network of processor- based client devices;

estimating, at said server, based on a client device's resources, a time when the client device is to complete an assigned task;

determining, at the server, whether the task is completed after said time; and if not, determining, at the server, why the task was not completed.

C. References

The Examiner relies on the following references as evidence:

Kraft	US 6,112,225	Aug. 29, 2000
Zack	US 2002/0124041 A1	Sep. 05, 2002 (filed Apr. 22, 1997)
Doney	US 2002/0122077 A1	Sep. 05, 2002 (filed Dec. 29, 1998)
Pronsati, Jr.	US 6,678,716 B1	Jan. 13, 2004 (filed Jun. 19, 2000)

D. Rejections

Claims 1-3, 6-8, 10-13, 16-18, 20-21, and 23-28 stand rejected under 35 U.S.C § 103(a) as being un-patentable over Kraft in view of Zack and further in view of Doney.

Claims 9 and 19 stand rejected under 35 U.S.C § 103(a) as being un-patentable over Kraft, Zack, and Doney in view of Prosati, Jr.

II. ISSUE

Has Appellant shown error in the Examiner's initial showing of obviousness? Specifically, does the combination of references teach the claimed "determining, at the server, whether the task is completed after said time; and if not, determining, at the server, why the task was not completed" as recited in independent claim 1?

III. PRINCIPLES OF LAW

OBVIOUSNESS

The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966). "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007).

IV. ANALYSIS

Appellant argues that the combination of references do not teach the claimed "determining, at the server, whether the task is completed after said time; and if not, determining, at the server, why the task was not completed," as recited in independent claim 1. (App. Br. 10-11.) We agree with Appellant.

The Examiner maintains that at page 4 of the Answer that Kraft and Zack do not explicitly disclosed "why/what errors causes incomplete task" and maintains that Doney teaches displaying diagnostic information or

discovery errors we will be used to indicate why the task was not completed and relies upon various paragraphs. The Examiner then summarily concludes that it would have been obvious to a person of ordinary skill in the art to incorporate Zack's ideas of estimating completion time for the task with Doney's ideas of displaying diagnostic messages/discovery errors to indicate particular task errors into Kraft's system in order to increase deficiencies for task management system and saving system resources by shifting/balancing resources between tasks. The Examiner essentially repeats the same discussion and conclusion at page 8 of the Answer. We find that Examiner's mere laundry list of cited paragraphs for factual support and unsupported lines of reasoning for conclusions makes us conclude that the Examiner has not set forth a sufficient initial showing of obviousness based upon a sufficient factual basis in the relied upon prior art teachings.

We find the teachings of Zack are based upon forward-looking predictions rather than determinations of why a task was not completed or backward looking. While Doney teaches recognition of non-normal process completion such as a task abort or the discovery of non-fatal errors and the presentation of an icon to the user in paragraph [0038], Doney only provides diagnostic information in a second pane in paragraph [0039]. We find this to fall short of the required "determining at the server, why the task was not completed." The Examiner has not provided any substantive discussion of the teachings of the reference as to how those skilled in the art would have understood those teachings and reasoned them to have suggested the invention as recited in independent claim 1. We are left with two much of a gap to speculate and find the Examiner has not proffered a sufficient initial showing of obviousness, and we must reverse the Examiner's rejection of

independent claim 1 and dependent claims 2, 3, 6-10, which depend therefrom. Independent claims 11 and 21[1] contain similar limitations as independent claim 1. We, therefore, cannot sustain the rejection of those claims and their dependent claims 12, 13, 16-20, and 23-28.

V. CONCLUSION

For the aforementioned reasons, the Appellant has shown error in the Examiner's initial showing of obviousness. Appellant has shown that the combination references does not teach or fairly suggest the claimed "determining, at the server, whether the task is completed after said time; and if not, determining, at the server, why the task was not completed," as recited in independent claim 1, and this limitation is similarly found in the other independent claims.

[1] Additionally, we note that independent claims 11 and 21 recite "a server" in line 1 and again in line 3 (claim 11) and line 5 (claim 21) introduces another "a server." Thereafter, these claims reference "said server" in line 5 (claim 11) and line 5 (claim 21) and subsequently reference "the server" in line 8 (claim 11) and line 7 (claim 21). In any future prosecution, the Examiner should clarify whether there is a single server or multiple server's since two servers are introduced in the claims and later referenced without clarification.

VI. ORDER

We reverse the obviousness rejection of claims 1-3, 6-13, 16-21, and 23-28.

REVERSED

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